

REMARKS

Following entry of this Amendment, claims 64-82 are pending in the above-identified application. Claims 1-63 have been canceled. Claims 64-82 are added to more clearly claim the novel aspects of the disclosed technology and, thereby, simplify further prosecution. The canceled claims were rejected under 35 U.S.C. §102(b) as being anticipated by Hsu ("A Robust Foundation for Binary Translation of X86 Code," 1997). Remarks are directed to the relevance of Hsu to new claims 64-82.

With respect to claims, 64, 65, 71, 72, 77 and 78, Hsu explicitly states:

Self-modifying code is one of the major hurdles in binary translation, and by its nature is machine dependent. ... **This thesis implements a self-modifying code detector to prevent the binary translator from translating self-modifying code.**

(p. 3, lines 13-17; *emphasis added*). The claims have been amended to clarify this feature of Applicants' claimed subject matter, specifically a "block of self-modifying subject code within a block of subject code" that is placed in a partition that is "translate[ed into] a first block of target code." In other words, Hsu handles self-modifying code by ignoring it rather than providing any mechanism for translating it and, therefore, does not anticipate the claimed subject matter.

With respect to claims 66, 67, 72, 73, 78 and 79, Hsu is directed to the relocation of segments rather than either re-partitioning, such as Applicants' "adding a block of code" to one block and removing the block from another, or block consolidation.

With respect to claims 68, 69, 74, 75, 80 and 81, although the Applicants do not concede that Hsu's "entry point" is actually an "entry translation structure," there is certainly no suggestion of an "exit translation structure. In addition to the reasons explained above, claims 65-70, 75-76 and 78-82 are allowable because each depends upon one of the allowable independent claims.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." (MPEP §2131, citing *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the claim." (MPEP

§2131, citing *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). "All words in a claim must be considered in judging the patentability of that claim against the prior art." (MPEP 2143.03, citing *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970)).

CONCLUSION

In light of the amendments and remarks made herein, Applicants submit that all pending claims are allowable and earnestly solicits notice thereof. Applicants are not conceding in this application that the unamended claims are not patentable over the art cited by the Examiner, as the present claim amendments are only for facilitating expeditious prosecution of the allowable subject matter. Applicants respectfully reserve the right to pursue these and other claims in one or more continuation and/or divisional patent applications. A Request for Continued Examination and a Request for a One-Month Extension of Time to file this Amendment and RCE by May 7, 2010 are being filed and paid for concurrently with this filing. It is believed that no other fees are due with the filing of this Amendment/RCE. However, should any other fees be due, the Commissioner is hereby authorized to charge such fees to the deposit account of IBM Corporation, Deposit Account No. 09-0447.

Respectfully submitted,

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